

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KENNETH J. PHELAN,

Plaintiff,

vs

5:10-CV-724

CHUCK SULLIVAN, N.Y.S.P. Senior Investigator;  
\*<sup>1</sup>MICHAEL REINOHL; \*ERIC LEONARD; \*ANN  
KOSTECKI; \*JIM CONWAY, MATTHEW  
RENNERMAN, N.Y.S.P. Officer with the rank of  
Major; NICOLE M. LICHVA, N.Y.S.P. Officer;  
LYNDA K. RYMANOWSKI, N.Y.S.P. Officer;  
HARRY CORBITT, Superintendent of N.Y.S.P.  
Police Dept.; ROBERT GAVIN, Reporter at the  
Times Union; T. TYLER, Senior Editor for the  
Times Union; R. SMITH, also known as Rex  
Smith; DEAN DELNEGRO, U.S. Immigration  
Agent; JUDGE WAGNER, Albany City Court  
Judge; CITY OF ALBANY; CHRISTINA  
CALABRESE, Assistant District Attorney; and  
\*NICK GEORGEADIS; Each Individually and  
in their Official Capacity,

Defendants.

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APPEARANCES:

KENNETH J. PHELAN

Plaintiff, Pro Se

09-A-01183

Five Points Correctional facility

Caller Box 119

Romulus, NY 14541

DAVID N. HURD

United States District Judge

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<sup>1</sup> \* Each sued as N.Y.S.P. Investigator.

**DECISION and ORDER**

Plaintiff, Kenneth J. Phelan, commenced this civil rights action in June 2010, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated July 7, 2010, the Honorable Andrew T. Baxter, United States Magistrate Judge, recommended that the complaint be dismissed in its entirety without prejudice against defendants Gavin, Tyler, Smith, Delnegro, Wagner, Lichva, Rymanowski, and Clabrese; and that the complaint be dismissed in its entirety without prejudice to the extent that it can be read to allege any claims directly against City of Albany. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the file, and the recommendations of Magistrate Judge Baxter, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that


1. The complaint is DISMISSED in its entirety without prejudice against defendants Robert Gavin, T. Tyler, R. Smith (a/k/a/Rex Smith), Dean Delnegro, Judge Wagner, Nicole M. Lichva, Lynda K. Rymanowski, and Christina Clabrese;

2. The complaint is DISMISSED in its entirety without prejudice to the extent that it can be read to allege any claims directly against the City of Albany;

3. The Clerk is directed to serve a copy of this order upon the plaintiff, complete the directives contained in the order of July 7, and refer the matter back to the Magistrate Judge for any further pretrial proceedings.

IT IS SO ORDERED.

Dated: July 22, 2010  
Utica, New York.

  
United States District Judge